

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

MISCELLANEOUS CIVIL APPLICATION NO.196 OF 2014

Mrs.Tejaswini Ajay Pawar .. Applicant

Vs.

Shri Ajay Ramchandra Pawar .. Respondent

Mr.Akshay P. Shinde for the applicant

Mr.Sandeep L. Babar for the respondent

**CORAM : K.K.TATED, J.
DATED : 14/10/2015**

PC:

1 Heard the learned counsel for the parties.

2 This application is filed by wife under section 24 of the Civil Procedure Code for transfer of Hindu Marriage Petition No.100 of 2013 filed by respondent husband under section 9 and 13 of the Hindu Marriage Act, 1955 for restitution of conjugal rights or divorce in the court of Civil Judge, Senior Division, Karad to the Family Court at Kolhapur.

3 Advocate for the applicant submits that applicant is household wife. She does not have any source of income at present. She is residing with her parents at Kolhapur. He submits that applicant has to

look after her five years son who is not keeping well. He submits that son is suffering from Ashthama. Hence, it is very difficult for the applicant to attend each and every date at Karad City in the Marriage Petition filed by respondent husband. In support of this contention, the learned counsel for the applicant relies on paragraph 6 and 7 of the application. Hence, in the interest of Justice, this Hon'ble Court be pleased to allow the application and transfer Hindu Marriage Petition No.100 of 2013 filed by respondent husband before the Civil Judge, Senior Division, Karad to Family Court at Kolhapur.

4 On the other hand, the learned counsel for the respondent husband vehemently opposed the present application. He submits that respondent's father recently met with a serious accident. It is not possible for them to do day to day activities without the help of third person. Hence, respondent has to take care of his father. Therefore, if matter is transferred from Karad to Kolhapur, it will be very difficult for respondent to attend each and every date. Hence, application filed by wife under section 24 of the Civil Procedure Code be dismissed.

5 I have heard both the sides. In the present proceeding, applicant wife have to look after her minor child 5 years old who is not keeping well. Apart from that, applicant does not have any source of income. She has to depend upon her parents only.

6 The Apex Court in the matter of **Pratibha Khema Vs. Sanjay Kumar Khemka, 2005(2) LJ Soft SC 19** held that the convenience of a lady to be given priority at the time of deciding the Application for transfer of divorce petition from one place to another place. Similar

view has been taken by our High Court in the matter of **Saw.Megha vs. Madan, 2013 (4) BCR 211.**

7 Considering the submission made by the learned counsel for the applicant and the law laid down by the Apex Court and High Court as stated hereinabove, I am satisfied that the applicant has made out a case for following order:

- a) Office of the Civil Judge, Senior Division Karad is directed to transfer Marriage Petition No.100 of 2013 filed by Ajay Ramchandra Pawar under section 9 and 13 of the Hindu Marriage 1955 to the Family Court at Kolhapur for hearing and final disposal on its own merits.
- b) Considering the facts and circumstances of the present case, hearing of Marriage Petition filed by respondent husband is expedited.
- c) Misc. Civil Application stands disposed of accordingly.

(K.K.TATED, J.)